

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

Lenore Albert,

Petitioner.

No. 2:24-mc-00117-KJM

ORDER

ADMINISTRATIVE MATTER

The court ordered Lenore Albert to show cause why she should not be suspended or disbarred from practice in this court. Ms. Albert has responded. After reviewing the record and reviewing Ms. Albert's responses, the court **denies** Ms. Albert's request and **disbars** her from practice in this court.

**I. BACKGROUND**

Ms. Albert initiated a communication with the court following her "third discipline matter since she obtained her law license in December 2000." *In the Matter of Albert*, No. 22-30348, 2024 WL 1231293, at \*1 (Cal. Bar Ct. Mar. 11, 2024). Earlier this year, a California state bar hearing judge found Ms. Albert culpable on five of six counts, and, on review, the Review Department of the State Bar of California found her culpable of all six counts. *Id.* (finding Ms. Albert culpable of moral turpitude in addition to the five counts found by the hearing judge, which included failure to comply with local rules, failure to comply with California law and

1 unauthorized practice of law). On March 11, 2024, the Review Department ordered Ms. Albert  
2 suspended effective March 14, 2024, pending disbarment. *Id.* at 19–20.

3 On March 12, 2024, Ms. Albert filed a motion for an order to show cause in this court  
4 regarding her notice of impending suspension and disbarment by the California State Bar. *See*  
5 Mot. Order Show Cause, *McMahon v. Whitney*, No. 23-1972 (E.D. Cal. Mar. 12, 2024), ECF No.  
6 59. The court interpreted the motion as being filed in the court generally as opposed to being  
7 filed in *McMahon*, a case in which Ms. Albert is counsel for the plaintiff. *See* Order Show Cause,  
8 ECF No. 2. The court subsequently opened this miscellaneous case regarding the attorney  
9 admissions status of Ms. Albert. The court granted Ms. Albert’s request for an order to show  
10 cause, as provided by the local rules, and directed Ms. Albert to show cause why she “should not  
11 be suspended or disbarred from practice in this Court.” *Id.* at 1 (citing E.D. Cal. L.R. 184(b)).  
12 Ms. Albert has filed three responses. First Resp., ECF No. 5; Second Resp., ECF No. 5-1; Third  
13 Resp., ECF No. 5-2.

## 14 II. LEGAL STANDARD

15 “If an attorney’s status so changes with respect to eligibility, the attorney shall forthwith  
16 be suspended from practice before this Court without any order of Court until becoming eligible  
17 to practice.” E.D. Cal. L.R. 184(b). “Upon written motion to the Chief Judge, an attorney shall  
18 be afforded an opportunity to show cause why the attorney should not be suspended or disbarred  
19 from practice in this Court.” *Id.* “[A] federal court’s imposition of reciprocal discipline on a  
20 member of its bar based on a state’s disciplinary adjudication is proper unless an independent  
21 review of the record reveals” at least one of the following conditions is met: “(1) a deprivation of  
22 due process; (2) insufficient proof of misconduct; or (3) grave injustice which would result from  
23 the imposition of such discipline.” *In re Kramer*, 282 F.3d 721, 724 (9th Cir. 2002) (citing *In re*  
24 *Kramer* (“*Kramer III*”), 193 F.3d 1131, 1132 (9th Cir. 1999)); *see also Selling v. Radford*,  
25 243 U.S. 46, 50–51 (1917). Federal courts “extend great deference to the state [bar] court’s  
26 determination unless” the court independently determines one of the enumerated conditions  
27 exists. *Gadda v. Ashcroft*, 377 F.3d 934, 943 (9th Cir. 2004). However, the court “must accord a  
28 presumption of correctness to the state court factual findings.” *In re Rosenthal*, 854 F.2d 1187,

1 1188 (9th Cir. 1988) (per curiam). It is the attorney’s burden to demonstrate by “clear and  
 2 convincing evidence” that one of the available conditions prevents a finding of reciprocal  
 3 discipline. *In re Kramer*, 282 F.3d at 724–25.

### 4 **III. PAGE LIMITS**

5 The court notes Ms. Albert has explicitly and intentionally not complied with the court’s  
 6 standing order, available on its web page, by significantly exceeding the court’s page limits. *See*  
 7 Standing Order at 3<sup>1</sup>; First Resp. at i (“Ms. Albert understands that the Court limits page size to  
 8 twenty pages, but Ms. Albert would not have a fair chance of laying out the reasons why she  
 9 should not be suspended or disbarred from this Court.”); Second Resp. at i (same); Third Resp. at  
 10 i (same). Rather than requesting leave to exceed the page limitations, Ms. Albert has simply  
 11 assumed she could do so and filed three separate briefs, totaling 37 pages without the tables of  
 12 contents, in response to the court’s order to show cause.

13 “The district court has considerable latitude in managing the parties’ motion practice and  
 14 enforcing local rules that place parameters on briefing.” *Christian v. Mattel, Inc.*, 286 F.3d 1118,  
 15 1129 (9th Cir. 2002). This includes setting page limits on briefs and enforcing its orders. *See*  
 16 *Swanson v. U.S. Forest Serv.*, 87 F.3d 339, 345 (9th Cir. 1996) (affirming district court’s decision  
 17 to strike an overlength brief). As Ms. Albert acknowledges, this court has specific rules regarding  
 18 the length and format of motion papers. *See* Standing Order at 3 (“Memoranda of Points and  
 19 Authorities in support of or in opposition to motions shall not exceed twenty (20) pages.”). These  
 20 page limits are not mere formalities. They promote judicial economy and “encourage litigants to  
 21 hone their arguments and to eliminate excessive verbiage.” *Fleming v. County of Kane*, 855 F.2d  
 22 496, 497 (7th Cir. 1988) (citation omitted); *see also N/S Corp. v. Liberty Mut. Ins. Co.*, 127 F.3d  
 23 1145, 1146 (9th Cir. 1997) (“[R]esources are limited. In order to give fair consideration to those  
 24 who call upon us for justice, we must insist that parties not clog the system by presenting us with  
 25 a slubby mass of words rather than a true brief. Hence we have briefing rules.”); *Snyder v. HSBC*  
 26 *Bank, USA, N.A.*, 913 F. Supp. 2d 755, 766 (D. Ariz. 2012) (“Judicial economy and concise

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<sup>1</sup> Chief Judge Kimberly J. Mueller, *Civil Standing Order*,  
<https://www.caed.uscourts.gov/caednew/index.cfm/judges/all-judges/5020/civil-standing-order>.

argument are purposes of the page limit.” (citation omitted)). District courts have imposed various sanctions for noncompliance with page limits, including disregarding noncompliant briefs, striking only portions of the brief that exceed the page limit and imposing monetary sanctions. *See Snyder*, 913 F. Supp. 2d at 766 (collecting cases). After receiving notice of her suspension and pending disbarment, on multiple grounds including failure to comply with local rules, Ms. Albert proceeded to flagrantly disregard an established rule of practice here. Given the gravity of the consequences Ms. Albert is facing, the court will nonetheless consider the merits of her responses without striking or disregarding the responses in part or in full. The court also notes Ms. Albert has attached over a thousand pages to her briefs, without providing pinpoint cites. The court is under no obligation to comb this voluminous record to find what may be helpful to Ms. Albert, if anything, but will take account of portions of the exhibits to the extent they are obviously relevant and pertain to the State Bar Court record. *See In re Kramer*, 282 F.3d at 723; *see also, e.g., Orr v. Bank of America*, 285 F.3d 764, 775 (9th Cir. 2002) (“Judges need not paw over the files without assistance from the parties.” (internal marks and citation omitted)).

#### IV. DISCUSSION

Before proceeding to the analysis of the *Selling* factors, the court briefly addresses two arguments raised by Ms. Albert in her first response. First, Ms. Albert argues suspension or disbarment is not warranted by a local rules violation. First Resp. at 5. She argues the Ninth Circuit has limited discipline for local rules violations to small sanctions. But review of the State Bar Court record makes clear her suspension pending disbarment was based not only on her violation of the local rule, but on other bases such as unauthorized practice of law and moral turpitude. *See generally In the Matter of Albert*, 2024 WL 1231293. Second, Ms. Albert argues the state bar refused to consider legal precedent that prevents federal courts from automatically suspending or disbaring an attorney based on a state court decision. First Resp. at 8. However, the State Bar court specifically discussed the automatic suspension provision and noted the procedure in this court’s Local Rules to challenge automatic suspensions. *See In the Matter of Albert*, 2024 WL 121293, at \*4 (“Suspended attorneys can challenge the automatic EDCA suspension through the process detailed in EDCA L.R. 184(b), which requires the suspended

attorney to take the proactive step of filing a motion directed to the Chief Judge for the EDCA.”). The court finds neither of these arguments meritorious.

### A. Due Process

Although Ms. Albert claims she was deprived of due process, she has not demonstrated such a deprivation. To establish a violation, Ms. Albert must show by clear and convincing evidence “that the state procedure, from want of notice or opportunity to be heard, was wanting in due process.” *Selling*, 243 U.S. at 51. “The lawyer subject to discipline is entitled to procedural due process, including notice and an opportunity to be heard.” *Rosenthal v. Justs. of the Sup. Ct. of Cal.*, 910 F.2d 561, 564 (9th Cir. 1990); *Rosenthal*, 854 F.2d at 1188. Ms. Albert claims “she was not informed that placing her State Bar Number . . . next to her name would be a form of [unauthorized practice of law] (advertising/holding oneself out [as a lawyer]).” First Resp. at 13. However, as the State Bar Court of California Review Department concluded, her use of her “State Bar number[, her] signed pleadings as counsel of record, and her signature line [being placed above that of the practicing attorney she was working with when she was suspended from practice] . . . are all clear signals she held herself out as an attorney on the matter.” *In the Matter of Albert*, 2024 WL 1231293, at \*9; *see* Cal. Bus. & Prof. Code § 6126; *cf. Matter of Wyrick*, No. 88-10804, 1992 WL 70556, at \*2–5 (Cal. Bar Ct. Apr. 6, 1992) (finding suspended attorney held himself out to be an attorney by using “Member, State Bar of CA” and “Esq.” to describe himself).

Additionally, Ms. Albert appears to argue she was deprived of due process when the state bar refused to consider her federal constitutional claim. Resp. at 13–14. The court is not persuaded. The case Ms. Albert seems to quote, for which she provides no citation, disproves her argument and concludes that under the California Constitution, the State Bar Court is not able to consider federal constitutional arguments. *See* First Resp. at 13; *Albert v. Gonzalez*, No. 23-00635, 2023 WL 8895708, at \*6 (C.D. Cal. Oct. 6, 2023); *Hirsh v. Justs. of Sup. Ct.*, 67 F.3d 708, 713 (9th Cir. 1995) (“The California Constitution precludes the Bar Court from considering federal constitutional claims.” (citing Cal. Const. art. III, § 3.5)). The State Bar did not deprive Ms. Albert of due process when it did not consider her constitutional claims.

Moreover, Ms. Albert argues she did not have notice the State Bar would find she committed unauthorized practice of law in federal court because the State Bar Act is meant to be limited to state court practice. *See* First Resp. at 17–19. This argument is wholly without merit. Compliance with the State Bar Act is required by this court’s local rules, which require attorneys practicing here to “comply with the standards of professional conduct required of members of the State Bar of California and contained in the State Bar Act, the Rules of Professional Conduct of the State Bar of California, and court decisions applicable thereto[.]” E.D. Cal. L.R. 180(e); *see Birbrower, Montalbano, Condon & Frank v. Superior Ct.*, 17 Cal. 4th 119, 130 (1998), *as modified* (Feb. 25, 1998) (recognizing while “[t]he [State Bar] Act does not regulate practice before United States courts[.]” several federal district courts “today condition[] admission to their respective bars . . . on active membership and good standing in California State Bar”).

The court is also unpersuaded by Ms. Albert’s arguments regarding the timing of the State Bar Court hearing, *see id.* at 14, the “[u]nfair[ness]” of the ruling on her request for judicial notice, *see id.* at 14–16, and the purported lack of any basis for the Review Department’s finding of moral turpitude, *see id.* at 19–20. Ms. Albert provides either no relevant legal authority or no legal authority at all in support of these arguments. She was heard on the merits by a hearing officer and on appeal, and she has not shown by clear and convincing evidence that she was deprived of due process. *See, e.g., In re Scannell*, 411 F. App’x 110, 112 (9th Cir. 2011).

### **B. Proof of Misconduct**

Ms. Albert contends there is insufficient proof of her misconduct. For her to benefit from this condition would require “that there was such an infirmity of proof as to facts found to have established the want of fair private and professional character as to give rise to a clear conviction on [the court’s] part that [the court] could not, consistently with [the court’s] duty, accept as final the conclusion on that subject[.]” *Selling*, 243 U.S. at 51. Ms. Albert repeatedly mentions in support of this argument a letter she received from the U.S. Supreme Court and a recent opinion from the Ninth Circuit Bankruptcy Appeals Panel. *See, e.g.,* Second Resp. at 1 (making references without citation). Though Ms. Albert claims the letter from the Supreme Court “demonstrate[s] that any suspension or disbarment would be premature under the Rules,” the

1 letter says nothing of the sort. *See* Letter from U.S. Supreme Court Clerk, ECF No. 5-9. Rather,  
2 the letter acknowledges her notice of interim suspension and notes “Supreme Court Rule 8 does  
3 not provide an avenue for [her] to seek the review of disbarment or disciplinary proceedings.” *Id.*  
4 Nothing in the letter supports the argument that the State Bar’s interim suspension is premature.  
5 *See* First Resp. at 1; Second Resp. at 1.

6 Similarly, she vaguely states the Ninth Circuit Bankruptcy Appeals Panel “reversed  
7 dismissal of Ms. Albert’s claim that the State Bar violated her constitutional rights with such  
8 disproportionate State Bar costs.” First Resp. at 1; Second Resp. at 1. However, she omits the  
9 critical detail that the opinion actually concluded “[t]he bankruptcy court properly dismissed  
10 Albert’s Eighth Amendment Claim for excessive fines against the State Bar,” and the opinion  
11 otherwise reversed dismissal of “Albert’s claims under the California constitution” because the  
12 bankruptcy court incorrectly determined there was no subject matter jurisdiction. *See In re*  
13 *Albert-Sheridan*, No. 18-01065, 658 B.R. 516, 527, 543. (B.A.P. 9th Cir. Apr. 2, 2024). This  
14 finding has no bearing on the merits of her claim or the relevant analysis here under *Selling*.  
15 Moreover, the Bankruptcy Appeals Panel, in issuing the reversal on jurisdictional grounds, noted  
16 “Albert’s scattered pleading and ever-changing arguments have confused the jurisdictional  
17 analysis,” *id.* at 545, and the concurrence in that case concluded Ms. Albert’s “briefing and oral  
18 argument . . . were incompetent” and “[s]he richly deserved the suspension and other discipline  
19 that the California Supreme Court imposed,” *id.* at 550 (Farris, J., concurring). The opinion in no  
20 way supports Ms. Albert’s argument that there was insufficient proof of misconduct. Her  
21 referencing it is of a piece with Ms. Albert’s practice of making false and misleading statements  
22 to the court.

23 Ms. Albert disputes the State Bar’s conclusions that her notification of her second  
24 suspension to this court was not “prompt,” as required by the local rules. Second Resp. at 2. She  
25 contends the lack of explicit statements by courts, judges and court staff that her notification of  
26 her suspension was not “prompt” amounts to evidence that her notification was, in fact, “prompt.”  
27 *Id.* at 2. Her argument is a logical fallacy, without any legal support. *Id.* at 2-3. Though there is  
28 no clear deadline required by the “prompt” notice requirement in the Local Rules, Ms. Albert

1 waited more than six months before providing the court notice of her suspension. *See In the*  
2 *Matter of Albert*, 2024 WL 1231293, at \*8. As the Review Board explained in its opinion,  
3 Ms. Albert even had “actual direct notice” of the relevant local rules and their requirements when  
4 the opposing party in a case she was working on cited them in reference to her eligibility to  
5 practice law, months before she notified the court. *See id.* Under no reasonable formulation  
6 could the six months Ms. Albert waited before giving notice to the court qualify as “prompt.”  
7 The Review Department provided sufficient proof of her misconduct.

8 Ms. Albert contends, also without citation, there was insufficient evidence to support the  
9 conclusion she was a “burden” on Judge McAuliffe and others in this court. Second Resp. at 3.  
10 The court construes this argument as pertaining to the Review Department’s determination that  
11 “limited weight in aggravation [was] warranted” under the aggravating factor regarding  
12 “[s]ignificant harm to the client, the public, or the administration of justice.” *In the Matter of*  
13 *Albert*, 2024 WL 1231293, at \*14; *Matter of Reiss*, No. 09-10499, 2012 WL 5406816 (Cal. Bar  
14 Ct. Oct. 3, 2012) (giving weight in aggravation for wasted judicial time and resources). In  
15 support of its determination, the Review Department pointed to the “wasted judicial time and  
16 resources” that stemmed from Ms. Albert’s inability to simply comply with this court’s Local  
17 Rules and appropriately provide notice of her suspension, which would have obviated the need  
18 for the additional burdens placed on the court. *Id.* The court finds the Review Department relied  
19 on sufficient proof.

20 Ms. Albert argues her appeals of her suspensions rendered the dates of her suspension  
21 “speculative,” potentially validating her conduct at the time. Second Resp. at 4–5. But her  
22 pending appeal did not nullify the suspension imposed by the State Bar and does not detract from  
23 the proof the Review Department determined established her culpability for her violations of the  
24 suspension at the time.

25 Finally, Ms. Albert argues there was insufficient proof because she was listed on this  
26 court’s website as having active status. *Id.* at 5; *In the Matter of Albert*, 2024 WL 1231293, at \*6.  
27 This argument is meritless. As the Review Department pointed out, “[t]he only reason the EDCA  
28 website showed Albert as active on February 12, 2021, is because Albert did not comply with

1 EDCA L.R. 184 and inform the EDCA of her suspensions.” *In the Matter of Albert*,  
 2 2024 WL 1231293, at \*12.

3 For these reasons, and upon an independent review of the record, the court finds there was  
 4 sufficient proof of misconduct to support Ms. Albert’s suspension and disbarment.

### 5 **C. Grave Injustice**

6 Ms. Albert argues grave injustice would result if the discipline imposed by the State Bar  
 7 were honored by this court. *See generally* Third Resp. She argues “reciprocal suspension or  
 8 disbarment would result in a manifest injustice because the practice of law is [her] sole source of  
 9 support.” *Id.* at 1. She provides no legal authority to support this argument. She appears to  
 10 “confuse[] the painful repercussion from reciprocal discipline itself (i.e., disbarment) with the  
 11 legal standard of whether imposing reciprocal discipline would result in grave injustice because  
 12 the discipline was improperly imposed.” *Matter of Dubin*, No. 20-00419, 2021 WL 4496948, at  
 13 \*16 (D. Haw. Sept. 30, 2021) (alteration omitted). “Instead, [the court] inquire[s] only whether  
 14 the punishment imposed by another disciplinary authority or court was so ill-fitted to an  
 15 attorney’s adjudicated misconduct that reciprocal disbarment would result in grave injustice.”  
 16 *In re Kramer*, 282 F.3d at 727.

17 Ms. Albert’s argument the disciplinary decision is retaliation for the lawsuit she brought  
 18 against the State Bar regarding a data breach is equally unconvincing. Ms. Albert identifies the  
 19 relevant date as her filing of the State Bar data breach putative class action on March 18, 2022,  
 20 after which she was the subject of State Bar disciplinary proceedings. But the State Bar’s  
 21 disciplinary actions against her began in 2015, predating the data breach lawsuit, with additional  
 22 proceedings initiated virtually annually through the present.<sup>2</sup>

23 The court also is not persuaded by Ms. Albert’s meandering argument that there was an  
 24 unjustifiable and unpredictable break in the law. *See* Third Resp. at 3–6. In making this  
 25 argument, Ms. Albert seems to request review of the merits of her case based on the underlying  
 26 acts and law. However, “[i]n reviewing a reciprocal disbarment, we do not re-try an attorney for

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<sup>2</sup> Attorney Profile for Lenore LuAnn Albert, STATE BAR OF CALIFORNIA,  
<https://apps.calbar.ca.gov/attorney/Licensee/Detail/210876>.

1 misconduct.” *In re Kramer*, 282 F.3d at 727. As explained above, the court finds the Review  
2 Department provided sufficient proof regarding Ms. Albert’s misconduct.

3 The court is not convinced by Ms. Albert’s arguments that grave injustice would occur if  
4 she were suspended or disbarred in this court because “[t]he putative class action of the State Bar  
5 data breach needs a home if the Central District cannot reopen the case,” Third Resp. at 1, 7–9,  
6 and “[h]er client Ryan McMahon cannot find other counsel due to the negative publicity and  
7 cancel-culture in the current environment,” *id.* at 1. Assuming without deciding that  
8 Mr. McMahon is unable to find other counsel, whatever the reason, that cannot provide a reason  
9 for Ms. Albert’s avoiding the consequences of her actions.

10 Ms. Albert has not shown by clear and convincing evidence that the third condition under  
11 *Selling*, grave injustice, applies here to spare her from reciprocal disbarment.

12 **D. Conclusion**

13 Ms. Albert has not shown any of the three conditions under *Selling* are satisfied to  
14 preclude disbarment. Ms. Albert is hereby **disbarred** from practice in the Eastern District of  
15 California.

16 This order resolves ECF No. 5.

17 IT IS SO ORDERED.

18 DATED: May 24, 2024.

  
CHIEF UNITED STATES DISTRICT JUDGE